IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 3755 of 1999

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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JETHABHAI PRAJAPATI & 2 - Petitioner(s)

Versus

VINAY VYAS & 3 - Respondent(s)

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Appearance :

MR MM TIRMIZI for Petitioner(s) : 1 - 3.
RULE SERVED for Respondent(s) : 1,
Ms FALGUNI PATEL, AGP for Respondent(s) : 2 - 4.

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 13/12/2005

ORAL JUDGMENT

In the present petition, the petitioners have challenged the order dated 23rd April 1999 passed by the Director of Municipalities by which petitioners and some

other councillors of Kheralu Municipality were ordered to be removed from their position. It was further provided that the pay and allowances paid to the employees by the Municipality which were found to be irregular should be recovered personally from these councillors.

2. The petitioners were protected by an interim order passed by this Court and the impugned order was stayed. All throughout the petition, therefore, the order passed by the Director of Municipalities was not implemented. During the pendency of the petition, the term for which the petitioners were elected as councillors has also come to an end. The questions which still remain outstanding are concerning the recovery ordered by the Director of Municipalities as well as that of disqualification of the petitioners in terms of the provisions contained in section 11(1) of the Gujarat Municipalities Act, 1963.

3. Some of the councillors who are included in the impugned order dated 23.4.1999 had preferred a group of petitions being Special Civil Application Nos.3269 of 1999 and connected matters. The said group of petitions came to be disposed of by the judgment and order dated 7th

December 2005. Therein the recovery ordered by the Director of Municipalities in the impugned order was quashed. It was further provided that there would be no further disqualification of the petitioners in terms of the provisions under section 11(1) of the said Act.

4. Factual and legal position being identical without separately once again giving reasons for my conclusions, relying on the order dated 7th December, 2005, the present petition is also disposed of by providing that (i) the directions contained in the impugned order passed by the Director of Municipalities with respect to recovery of the pay and allowances from the petitioners is quashed and (ii) there will be no further disqualification against the petitioners in terms of the provisions contained in section 11(1) of the Gujarat Municipalities Act, 1963. With these directions, the petition is disposed of. Rule is made absolute accordingly with no order as to costs.

(Akil Kureshi, J.)

(vjn)